



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

July 23, 2018

H.R. 6138 **Ambulatory Surgical Center Payment Transparency Act of 2018**

As reported by the House Committee on Ways and Means on July 17, 2018

H.R. 6138 would change how the Secretary of Health and Human Services (HHS) determines whether Medicare will cover a surgical procedure when the procedure is performed in an Ambulatory Surgical Center (ASC). CBO expects the legislation would have little effect on the set of procedures approved for payment when performed in an ASC.

Under current law, the Secretary convenes an advisory panel each year that solicits public input about whether particular surgical procedures commonly performed in a hospital outpatient department should also be covered when performed in an ASC. That panel then recommends to the Secretary which, if any, should be covered in an ASC. In general, the Secretary may exclude a procedure from ASC coverage only if:

- Such coverage would pose a safety risk,
- The surgery meets criteria for complexity or specified risks, or
- The procedure can only be reported using an “unlisted-surgical-procedure” code.

If the Secretary excludes a procedure from ASC coverage because it poses a safety risk or requires extended medical monitoring and care, H.R. 6138 would require the Secretary to identify the evidence on which that determination is based. CBO expects that the Secretary’s determinations of safety risk are based on evidence and that requiring the Secretary to identify that evidence would have no effect on ASC-coverage determinations.

The legislation also would eliminate the automatic exclusion for surgical procedures that are reported using an unlisted-surgical-procedure code. Such codes are used for surgical procedures performed in both physicians’ offices and hospital outpatient departments. Medicare’s payment rates for surgical procedures are lower for surgeries performed in physicians’ offices than in ASCs, and lower for surgeries performed in ASCs than in hospital outpatient departments. Therefore, shifting the setting in which a surgery is performed from a physician’s office to an ASC would increase Medicare spending,

whereas shifting a surgery from an outpatient department to an ASC would decrease Medicare spending. CBO considered multiple plausible patterns for shifts among settings and concluded that on balance there would be a negligible net change in Medicare spending.

Enacting H.R. 6138 could affect direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that the net effects would be insignificant for each year. H.R. 6138 would not affect revenues.

CBO estimates that enacting H.R. 6138 would not significantly change net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 6318 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Colin Yee. The estimate was reviewed by Leo Lex, Deputy Assistant Director for Budget Analysis.